

ORIGINAL

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FILED/ACCEPTED

MAY - 4 2007

Federal Communications Commission
Office of the Secretary

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations.
(Coal Run, Kentucky and Clinchco, Virginia

)
)
)
)
)
)
)

MB Docket No. 04-319
RM-10984

To: Office of the Secretary
Attn: Assistant Chief, Audio Division, Media Bureau

PETITION FOR RECONSIDERATION

East Kentucky Broadcasting Corporation ("East Kentucky"), by its attorneys, pursuant to Section 1.106 of the Commission's rules, hereby respectfully requests reconsideration of the **Report and Order** in this matter, DA 07-1350, released March 20, 2007.¹ As demonstrated herein, the **Report and Order** is premised upon an erroneous reading of Commission rules. When the applicable rule is properly applied, the single flaw cited by the staff disappears. Thus, East Kentucky's petition should have been granted rather than denied.

In support whereof, the following is respectfully shown:

1. As correctly stated in the **Report and Order**, in this proceeding East Kentucky seeks to upgrade its station WPKE-FM, Coal Run, Kentucky from Channel 276A to Channel 221C3. To accommodate this channel substitution and license modification, East Kentucky proposed the substitution of Channel 276A for Channel 221A at Clinchco, Virginia and corresponding modification of the license of station WDIC-FM to specify such operation.

Report and Order at ¶¶ 1-2.

¹ The Report and Order was published in the Federal Register on April 4, 2007 at 72 FR 16315. Consequently, this petition for reconsideration is timely, pursuant to Sections 1.106(f) and 1.4(b)(1) of the Commission's rules.

No. of Copies rec'd 0+4
List ABCDE

2. The staff denied the proposed upgrade upon finding that the proposed site, as well as two alternative sites proposed by East Kentucky, ostensibly contravened the requirements of Commission rules. Specifically, the staff found that towers sufficiently high to clear terrain obstructions would require effective radiated power to be reduced to less than six kilowatts, which it held to be the minimum effective radiated power for a Class 3 facility. **Report and Order** at ¶¶4-5. However, the staff's analysis and conclusion are based upon an erroneous reading of applicable FCC rules.²

3. Submitted herewith is a Technical Report of Charles M. Anderson Associates. As noted therein, Section 73.211 of the rules does not establish an invariable six kilowatt minimum ERP for Class C3 stations. Rather, Section 73.211(a)(1) prefaces the list of the minimum ERP for each class by stating: "Except as provided in paragraphs (a)(3) and (b)(2) of this section, FM stations must operate with a minimum effective radiated power (ERP) as follows:" The **Report and Order** apparently overlooked this crucial prefatory qualification.

4. As Mr. Anderson notes, Section 73.211(a)(3) enables any station other than Class A to have an ERP less than the value specified in paragraph (a)(1) [that is, six kilowatts for a Class C3 station] provided that its reference distance exceeds the distance to the class contour for the next lower class. Section 73.211(b)(2) further permits an antenna height above average terrain greater than the reference HAAT for a station's class [100 meters for a Class C3 station] if its ERP is lower than the class maximum such that its reference distance may not exceed its class contour distance [39 kilometers for Class C3]. At note 2 and Exhibit E4 of his Technical Report, Mr. Anderson demonstrates that the tall tower required to overcome East Kentucky's

² The staff stated that the required reductions in power "would be in contravention of Section 73.211(b)(2)(iv) of the rules which requires that the minimum effective radiated power for a Class C3 facility be not less than six kilowatts." **Report and Order** at ¶4. According to the current version of FCC rules available through the Commission's website, no such subsection exists. For purposes of this petition, so as to avoid hyper-technical objections, we have attempted to address what appear to be the appropriate subparts of Section 73.211.

terrain obstruction in fact will meet these criteria – its proposed ERP of 2.05 kw at an HAAT of 341 meters will produce a 39 km 60 dBu contour, which easily exceeds the class contour distance for the next lowest class [Class A – 28 km] and meets the class contour for its own class [Class C3 – 39 km]. Thus, contrary to the analysis and conclusion of the *Report and Order*, the facility proposed by East Kentucky in the subject rulemaking fully complies with the requirements of Section 73.211 of the Commission's rules.

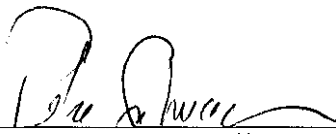
5. In his statement, Mr. Anderson goes on to document 125 existing Class C3 non-reserved band stations that operate with effective radiated powers below six kilowatts. He further demonstrates two instances, including one authorized a mere two weeks before adoption of the *Report and Order*, in which the Commission authorized Class C3 allocation reference points that require the use of ERPs of less than six kilowatts (a mere 0.425 kilowatts in the most recent instance). It is well established that the Commission is required to treat similarly situated applicants the same and to apply its precedents in a consistent manner. *See, e.g., Garrett v. FCC*, 513 F.2d 1056, 1060 (DC Cir 1975), *citing Melody Music, Inc. v. FCC*, 345 F.2d 730, 732-3 (DC Cir 1965). Consequently, the Commission must treat the East Kentucky proposal in the same manner as the 125 other instances of Class C3 stations operating with effective radiated powers of less than six kilowatts, as well as the two instances cited by Mr. Anderson of allotments whose reference coordinates require similarly reduced powers.

6. In view of the foregoing, East Kentucky respectfully submits that the subject *Report and Order* is premised upon an erroneous application of the applicable Commission rule. Specifically, the staff denied East Kentucky's proposal for the sole reason that its power fell below the ostensible minimum of 6 kw listed in §73.211(a)(1) of the rules even though the prefatory language to that very section specifically exempts facilities whose contour reference

distance satisfies the criteria of sections 73.211(a)(3) **and** (b)(2), which East Kentucky clearly meets. Consequently, East Kentucky respectfully submits that the conclusion of the ***Report and Order*** should be reversed and that its subject petition for rulemaking should be granted

Respectfully submitted,

**EAST KENTUCKY
BROADCASTING CORPORATION**

By: 
John Garziglia
Peter Gutmann
Its Attorneys

Womble Carlyle Sandridge & Rice, PLLC
1401 I Street, NW
Seventh Floor
Washington, DC 20005
(202) 857-4455

May 4, 2007

**TECHNICAL REPORT
IN SUPPORT OF A
PETITION FOR RECONSIDERATION
OF THE COMMISSION'S ACTION IN
MB Docket No. 04-319**

In the Report and Order in MB docket No.04-319, the Commission denied the proposed incompatible swap upgrade for Station WPKE-FM on Channel 221C3 citing Section 73.211(b)(2)(iv) of the Rules'. In denying the proposal, the Commission acknowledged that the use of a 173 meter tower at the original proposed allocation point could achieve line of sight to Coal Run, KY in compliance with Section 73.315². Therefore, the Commission's denial of the proposed upgrade is based entirely on its reading of Section 73.211 with regard to minimum power for a Class C3 station. Paragraph 4 of the Report and Order is included herein for reference.

4. We deny the proposed upgrade. A proposed transmitter site must be available and in compliance with Commission technical requirements.⁵ While we presume that the proposed site is technically feasible and available, that presumption is rebuttable.⁶ Our engineering study regarding the originally proposed site (37-23-57 NL and 82-23-42 WL) has confirmed that there is, in fact, a major terrain obstruction 10.4 (6.5 miles) from the proposed transmitter site. Maximum Class C3 facilities are an effective radiated power of 25 kilowatts at a height above average terrain of 100 meters (328 feet). In this instance, a tower of approximately 80 meters (160 feet) above ground would result in a height above average terrain of 100 meters. Even assuming FAA clearance, it would be necessary to construct a tower of approximately 173 meters (570 feet) above ground to achieve a height above average terrain of 224 meters to overcome this terrain obstruction. Increasing the height above average terrain requires a reduction in effective radiated power in order to ensure that a station is not operating in excess of maximum permissible facilities. In this situation, it would be necessary to reduce effective radiated power to 5.1 kilowatts. This would be in contravention of Section 73.211(b)(2)(iv) of the rules which requires that the minimum effective radiated power for a Class C3 facility be not less than 6 kilowatts.⁷

¹ This citation is apparently in error. Section 73.211(a)(1)(iv) appears to be the intended reference.

² It is noted that the proposed Coal Run reference point is at 555 meters (1880 feet) AMSL. Use of a 173 meter tower as the Commission proposed to overcome terrain obstacles results in a radiation center above sea level of 728 meters and an HAAT of 341 meters. An ERP of 2.05 kW is required at this HAAT to produce a 39 km maximum class 60 dBu contour (see Exhibit E4).

Charles M. Anderson Associates

A. The Commission's reading of Section 73.211 is in error.

Section 73.211(a) clearly states that the minimum powers for each class apply "...except as provided in paragraphs (a)(3) and (b)(2) of this section". Those paragraphs included below in their entirety provide that the minimum power for a class C3 station is determined by the combination of effective radiated power and HAAT required to produce the maximum reference class contour - in this case 39 km for a class C3 60 dBu. Section 73.211(b)(iii)(2) clearly states that the 6 kW minimum does not apply for facilities with an HAAT above 100 meters.

Sec. 73.211 Power and antenna height requirements (Excepts with emphasis added to relevant portions).

(a) Minimum requirements. (1) Except as provided in paragraphs (a) (3) and (b) (2) of this section, FM stations must operate with a minimum effective radiated power (ERP) as follows:

- (i) The minimum ERP for Class A stations is 0.1 kW.
- (ii) The ERP for Class B1 stations must exceed 6 kW.
- (iii) The ERP for Class B stations must exceed 25 kW.
- (iv) The ERP for Class C3 stations must exceed 6 kW.
- (v) The ERP for Class C2 stations must exceed 25 kW.
- (vi) The ERP for Class C1 Stations must exceed 50 kW.
- (vii) The minimum ERP for Class C and C0 stations is 100 kW.

(3) Stations of any class except Class A may have an ERP less than that specified in paragraph (1) (i) of this section, provide that the reference distance, as determined in accordance with paragraph (b) (1) (i) of this section, exceeds the distance to the class contour for the next lower class. Class A Stations may have an ERP less than 100 watts provided that the reference distance, determined in accordance with paragraph (b) (1) (i) of this section, equals or exceeds 6 kilometers

(b) Maximum limits. (1) Except for stations located in Puerto Rico or the Virgin Islands, the maximum ERP in any direction, reference HAAT, and distance to the class contour for each FM station class are listed below:

Station class	Maximum ERP	Reference HAAT in meters (ft.)	Class contour distance in kilometers
A.....	6 kW (7.8 dBk)	100 (328)	28
B1.....	25 kW (14.0 dBk)	100 (328)	35
B.....	50 kW (17.0 dBk)	150 (492)	52
C3.....	25 kW (14.0 dBk)	100 (328)	39
C2.....	50 kW (17.0 dBk)	150 (492)	52

Charles M. Anderson Associates

C1.....	100 kW (20.0 dBk).....	299 (981)	72
CO.....	100 kW (20.0 dBk).....	450 (1476)	83
C.....	100 kW (20.0 dBk).....	600 (1968)	92

(i) The reference distance of a station is obtained by finding the predicted distance to the 1mV/m contour using Figure 1 of Sec. 73.333 and then rounding to the nearest kilometer. Antenna HAAT is determined using the procedure in Sec. 73.313. If the HAAT so determined is less than 30 meters (100 feet), a HAAT of 30 meters must be used when finding the predicted distance to the 1 mV/m contour.

(ii) If a station's ERP is equal to the maximum for its class, its antenna HAAT must not exceed the reference HAAT, regardless of the reference distance. For example, a Class A station operating with 6 kW ERP may have an antenna HAAT of 100 meters, but not 101 meters, even though the reference distance is 28 km in both cases.

(iii) Except as provided in paragraph (b)(3) of this section, no station will be authorized in Zone I or I-A with an ERP equal to 50 kW and a HAAT exceeding 150 meters. No station will be authorized in Zone II with an ERP equal to 100 kW and a HAAT exceeding 600 meters.

(2) If a station has an antenna HAAT greater than the reference HAAT for its class, its ERP must be lower than the class maximum such that the reference distance does not exceed the class contour distance. If the antenna HAAT is so great that the station's ERP must be lower than the minimum ERP for its class (specified in paragraphs (a)(1) and (a)(3) of this section), that lower ERP will become the minimum for that station.

B. There are one hundred twenty five (125) existing Class C3 non-reserved band stations operating with effective radiated powers below 6 kW.

A listing of one hundred twenty five stations operating with ERPs below 6 kW was derived from the BIA database, and is included as an exhibit E1 to this report. Many of these stations were authorized as one-step upgrades with allocation points that required the use of an ERP less than 6 kW. The existence of these facilities with powers as low as .215 kW clearly contradicts the Commission's assertion in Para. 4 of the Report and Order.

C. There are existing and proposed class C3 allocations at reference points requiring the use of an ERP less than 6 kW.

The Anniston, AL 261C3 reference point at N33-40-51 W 85-48-56 is at 454 meters AMSL. Use of a minimal 15 meter tower to avoid excessive RF exposure yields

an HAAT of 214.4 meters and an ERP of 5.6 kW to produce a 39.1 km 60 dBu (see attached exhibit E2).

The Commission just proposed an allocation on 226C3 for Prineville, OR on March 3, 2007 (MB Docket No. 07-39). At that allocation reference point the use of a short 15 meter tower would result in an HAAT of 673 meters requiring the ERP to be reduced to .425 kW to comply with Section 73.211 (see attached exhibit E3).

D. Conclusion

It is concluded that the Commission's interpretation of Section 73.211 enunciated in Para. 4 of the Report and Order is in error, and that, in fact, a class C3 allotment may be made at a reference point requiring the use of an ERP less than 6 kW based on the combination of ERP and HAAT required to produce a 39 km reference contour. Furthermore, the Commission stated that the use of a 173 meter tower could overcome obstructions and permit line of sight to Coal Run and compliance with Section 73.315. It is noted that in *Halls Crossroads, TN* the Commission permitted the theoretical use of a 205 meter tower for a Class A allotment to achieve line of sight (DA 05-3059, MB Docket No. 03-120 at para. 8).



Charles M. Anderson 4-27-2007
1519 Euclid Avenue
Bowling Green, KY 42103
270-782-0246
270-793-9129 FAX
cmanderson43@yahoo.com

E I BIA Radio Technical Report

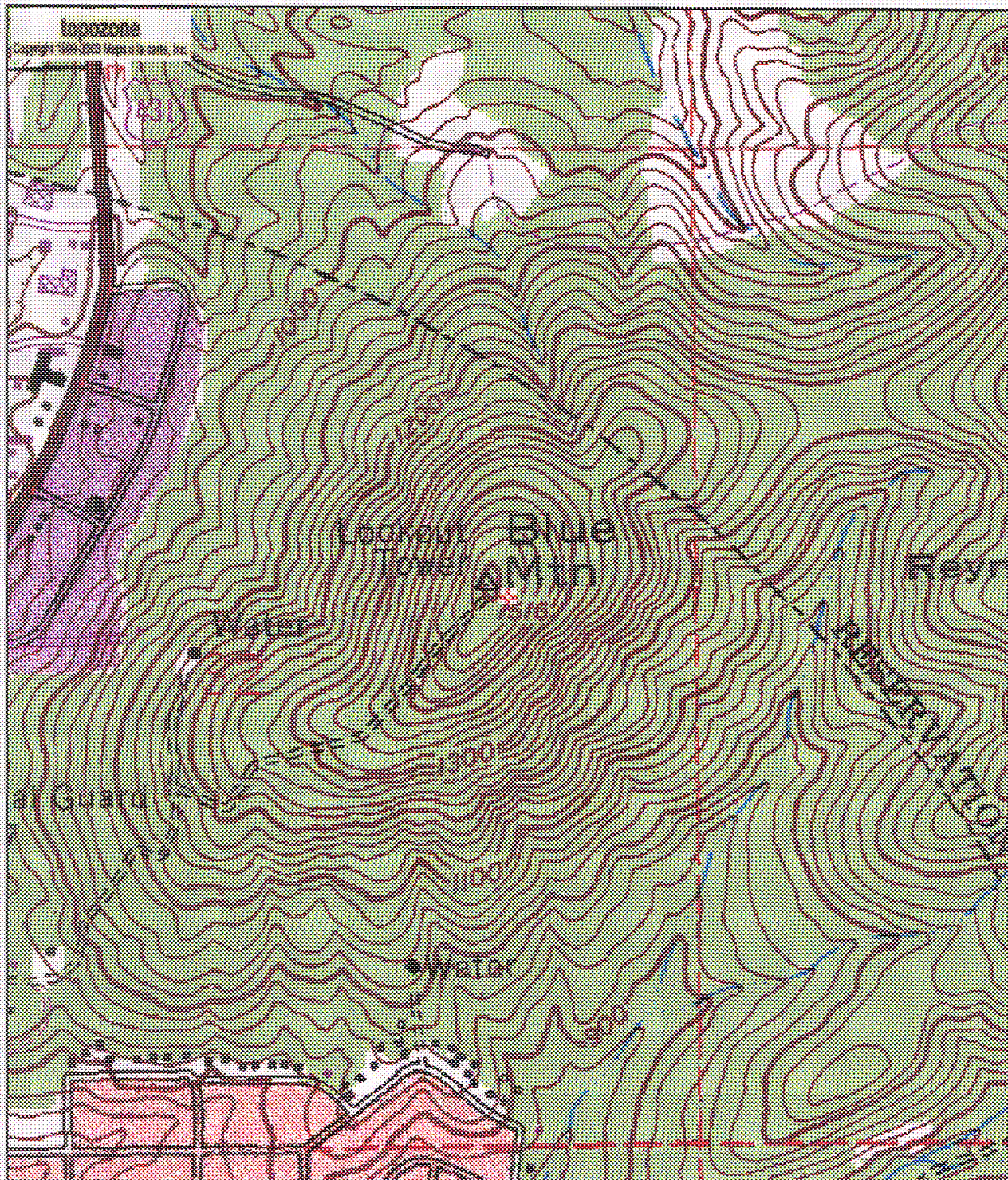


Call	AM/	State of	Daytime	Night					
Letters	FM	City of License	License	Format	Power	Power	HAAT	Frequency	Class
KAAI	FM	Palisade	CO	CP-NOA	215	cp	2,989	98.5	C3
KAVJ	FM	Sutherlin	OR	Oldies	3,600		86W	101.1	c3
KBDN	FM	Bandon	OR	Clsc Rock	1,500		1,296'	96.5	c3
KBFL	FM	Buffalo	MO	Adlt Stndrd	3,100		476'	99.9	c3
KBVC	FM	Buena Vista	CO	Country	600		1,188'	104.1	C3
KBXR	FM	Columbia	MO	AAA	3,500		856'	102.3	C3
KCDL	FM	Cordell	OK	Clsc Rock	4,400	cp	708'	99.3	c3
KCJC	FM	Dardanelle	AR	country	1,450		1,322'	102.3	C3
KCLS	FM	Ely	NV	Clsc Hits	1,000		840'	101.7	C3
KCUA	FM	Naples	UT	Clsc Rock	840		1,660'	92.5	C3
KDCQ	FM	Coos Bay	OR	Oldies	4,500		524'	92.9	C3
KDZY	FM	McCall	ID	Country	500		1,923	98.3	c3
KESR	FM	Shasta Lake City	CA	Modern AC	1,400		1,362	107.1	C3
KEUG	FM	Venete	OR	Variety	2,800		994'	105.5	C3
KEZG	FM	Caliw Rock	AR	CP - NOA	5,200	cp	218'	97.1	c3
KFMU	FM	Oak Creek	CO	AAA	1,400		1,073'	104.1	C3
KFPB	FM	Chino Valley	AZ	Country	4,100		810'	94.3	c3
KFRO	FM	Gilmer	TX	AC	5,900		666	95.3	c3
KFTT	FM	Bagdad	AZ	Adlt Stndrd	900		1,250'	103.1	C3
KFZA	FM	Flagstaff	AZ	CP - NOA	560	cp	1,959'	103.7	C3
KGDN	FM	Pasw	WA	Christian	2,750		1,001'	101.3	C3
KGTW	FM	Ketchikan	AK	Country	440		2,185'	106.7	C3
KGY	FM	McCleary	WA	Country	2,350		1,056'	96.9	C3
KHCR	FM	Bismarck	MO	Gospel	4,200		798'	99.5	c3
KHHK	FM	Yakima	WA	CHR	4,100		804'	99.7	c3
KHKR	FM	East Helena	MT	Country	5,000		653'	104.1	C3
KHME	FM	Winona	MN	Soft AC	5,000		742'	101.1	c3
KISY	FM	Twin Falls	ID	CP - NOA	5,200	cp	722'	102.1	c3
KJMT	FM	Calico Rock	AR	Talk	5,200		715'	97.1	C3
KKFT	FM	Gardnerville-Minden	NV	Talk	410		2,007'	99.1	c3
KKSP	FM	Bryant	AR	ChrsContemp	5,600		699	93.3	c3
KKXS	FM	Shingletown	CA	Country	1,900		1,175'	96.1	C3
KLBU	FM	Pews	NM	Modern AC	3,700		686'	102.9	C3
KLCR	FM	Lakeview	OR	Clsc Rock	780		1,378'	95.3	c3
KLER	FM	Orofino	ID	AC	2,300		676'	95.1	C3
KLES	FM	Prosser	WA	Spanish AC	3,500		869	101.7	C3
KLGA	FM	Algona	IA	AC	3,500		449	92.7	C3
KLQQ	FM	Clearmont	WY	Top 40	2,100		1,122'	104.7	C3
KLVF	FM	Pews	NM	AdHts/AC	3,700	cp	686'	100.7	C3
KMEZ	FM	Belle Chasse	LA	Urban AC	4,700		604'	102.9	C3
KMKK	FM	Kaunakakai	HI	Ethnic	1,900		1,181'	102.3	C3
KMNT	FM	Chehalis	WA	Country	2,350		1,058'	104.3	C3
KMPA	FM	Hazelton	ID	CP - NOA	4,900	cp	742	94.3	c3
KMSW	FM	The Dalles	OR	Clsc Rock	3,400		892	92.7	C3
KMZE	FM	Woodward	OK	AC	2,150		1,099'	92.1	C3
KNCU	FM	Newport	OR	Country	3,800		840'	92.7	C3
KORT	FM	Grangeville	ID	Country	360		2,352'	92.7	C3
KPBM	FM	McCamey	TX	Span/Chrst	3,000		761'	95.3	c3
KPTY	FM	Missouri City	TX	Hip Hop	2,700		981'	104.9	C3
KPWB	FM	Piedmont	MO	Country	3,700		856	104.9	C3
KQEG	FM	La Crescent	MN	Oldies	4,300		787'	102.7	C3
KQIK	FM	Lakeview	OR	Sam	1,000		951'	93.5	c3
KRAO	FM	Colfax	WA	Rock	2,200		1,079'	102.5	C3
KRQS	FM	Albeion	MT	CP - NOA	1,100	cp	787'	105.5	C3
KRQT	FM	Castle Rock	WA	Clsc Rock	740		1,732'	107.1	C3
KRVG	FM	Glenwood Springs	CO	Clsc Rock	260		2,710'	95.5	c3
KRVQ	FM	Victor	ID	CIRck/SmJaz	820		1,086'	92.3	C3
KSND	FM	Monmouth	OR	AC	1,000		1,565'	95.1	C3
KSRN	FM	Kings Beach	CA	AC/Spn/Mex	230		2,868'	107.7	C3
KSVL	FM	Smith	NV	Alternative	490		2,074'	92.3	C3
KTDZ	FM	College	AK	Oldies	2,950		824'	103.9	C3
KTHS	FM	Berryville	AR	Country	3,600		627'	107.1	C3
KTIL	FM	Tillamook	OR	MOR	1,800		1,171'	94.3	c3
KTMG	FM	Prescott	AZ	Country	2,550	cp	1,024	99.1	c3
KTPO	FM	Kootenai	ID	Clsc Rock	1,300		1,158'	106.7	C3

E I BIA Radio Technical Report



Call Letters	AMI FM	City of License	State of License	Format	Daytime Power	Night Power	HAAT	Frequency	Class
KTRO	FM	Gladstone	OR	Talk	1,600		1,270'	93.1	C3
KTRT	FM	Winthrop	WA	CP - NOA	330	cp	1,650'	97.5	c3
KTWL	FM	Hempstead	TX	Soft AC	5,400	cp	717'	105.3	C3
KTWS	FM	Bend	OR	Clsc Rock	5,200		732	98.3	c3
KTYN	FM	Thayne	WY	CP - NOA	370	cp	2,333'	105.9	C3
KUJZ	FM	Cresweil	OR	Smooth Jazz	630		1,207'	95.3	c3
KVRD	FM	Cottonwood	AZ	Country	300		2,556'	105.7	C3
KVRG	FM	Victor	ID	country	821		1,086'	103.7	C3
KWAW	FM	Garapan-Saipan	MP	Rhymc/Ethnc	1,100		1,513'	100.3	C3
KWDP	FM	Prineville	OR	CP - NOA	390	cp	2,251'	98.9	c3
KWNA	FM	Winnemucca	NV	Country	470		2,116'	92.7	C3
KYLS	FM	Ironton	MO	Country	3,100		650'	95.9	c3
KYSF	FM	Bonanza	OR	CHR	460		2,106'	102.9	c3
KYYK	FM	Palestine	TX	Country	5,000		728'	98.3	c3
KZCC	FM	McCloud	CA	CP - NOA	4,800	cp	229	95.5	c3
KZZE	FM	Eagle Point	OR	Rock	900		1,591'	106.3	C3
KZZX	FM	Alamogordo	NM	Country	1,370	cp	1,352'	105.3	C3
NEW	FM	Del Norte	CO	CP - NOA	930	cp	1,590'	96.5	C3
NEW	FM	Allen	NE	CP - NOA	5,600	cp	686'	100.9	c3
NEW	FM	Granite	OK	CP - NOA	1,250	cp	1,030'	104.3	C3
WAJV	FM	Brooksville	MS	Urban/Gospl	5,800		676'	98.9	c3
WASE	FM	Radcliff	KY	Oldies	3,500		761'	103.5	C3
WAYA	FM	Spring City	TN	country	5,500		574'	93.9	c3
WBDI	FM	Copenhagen	NY	CHR	1,800		1,191'	106.7	C3
WCHZ	FM	Harlem	GA	Modern Rock	5,700		538'	95.1	C3
WCVT	FM	Stowe	VT	Classical	500		2,067'	101.7	C3
WDEV	FM	Warren	VT	FullService	400		2,277'	96.1	C3
WDGM	FM	Greensboro	AL	Oldies	3,200		623'	99.1	c3
WDUZ	FM	Brillion	WI	sports	3,600		879	107.5	C3
WECO	FM	Wartburg	TN	Country	3,500		771'	101.3	C3
WGCK	FM	Coeburn	VA	son AC	1,950		1,168'	99.7	c3
WGMT	FM	Lyndon	VT	HotAC/CHR	600		1,883'	97.7	c3
WGPB	FM	Rome	GA	News/Clsc	4,300		791'	97.7	c3
WIOL	FM	Greenville	GA	Clsc Rock	3,400		876'	95.7	c3
WKLW	FM	Paintsville	KY	Hot AC	4,900		732	94.7	c3
WKSZ	FM	De Pere	WI	Hot AC	4,500		774'	95.9	c3
WLSQ	FM	Rockwood	TN	Country	1,650	cp	1,234'	105.7	C3
WMGL	FM	Ravenel	SC	Urban	5,300		430'	101.7	C3
WMOO	FM	Derby Center	VT	Hot AC	2,250		620'	92.1	c3
WOGB	FM	Kaukauna	w i	Oldies	3,600		879	103.1	C3
WOXL	FM	Biltmore Forest	NC	Clsc Hits	1,850		1,171'	96.5	c3
WPSK	FM	Pulaski	VA	Country	1,750		1,207'	107.1	C3
WQSB	FM	Albertville	AL	Country	2,700		1,001'	105.1	c3
WRGR	FM	Tupper Lake	NY	Clsc Rock	1,200	cp	1,447'	102.1	c3
WTAK	FM	Hartselle	AL	Clsc Rock	5,400		725'	106.1	C3
WTBK	FM	Manchester	KY	ClRck/NwRck	5,000		715'	105.7	C3
WTBM	FM	Mexico	ME	Country	850		1,273'	100.7	C3
WTZR	FM	Elizabethton	TN	Altve/Rock	3,600		810'	99.3	c3
WUKS	FM	St. Pauls	NC	Urban	5,200		656'	107.7	C3
WVKM	FM	Matewan	WV	Clsc Rock	4,300		751'	106.7	C3
WWAX	FM	Herrmantown	MN	AC	5,400		705'	92.1	c3
WWFY	FM	Berlin	VT	Country	5,200		719'	100.9	c3
WWOD	FM	Hartford	VT	Oldies	5,600		49s	104.3	C3
WXHB	FM	Richton	MS	Gospel	5,700		574'	96.5	C3
WXXS	FM	Lancaster	NH	AC	1,500		965'	102.3	C3
WZBB	FM	Stanleytown	VA	Country	3,600		722'	99.9	c3
WZKR	FM	Decatur	MS	AC	4,800		591'	103.3	C3
WZNL	FM	Noway	MI	AC	2,400		650'	94.3	c3
WZQQ	FM	Hyden	KY	Hot AC	1,750		1,207'	97.9	c3
WZZU	FM	Lynchburg	VA	Clsc Rock	570		1,926'	97.9	c3



M=-3.03
G=0.657

E2B ANNISTON, AL 26163 HAAT TABULATION

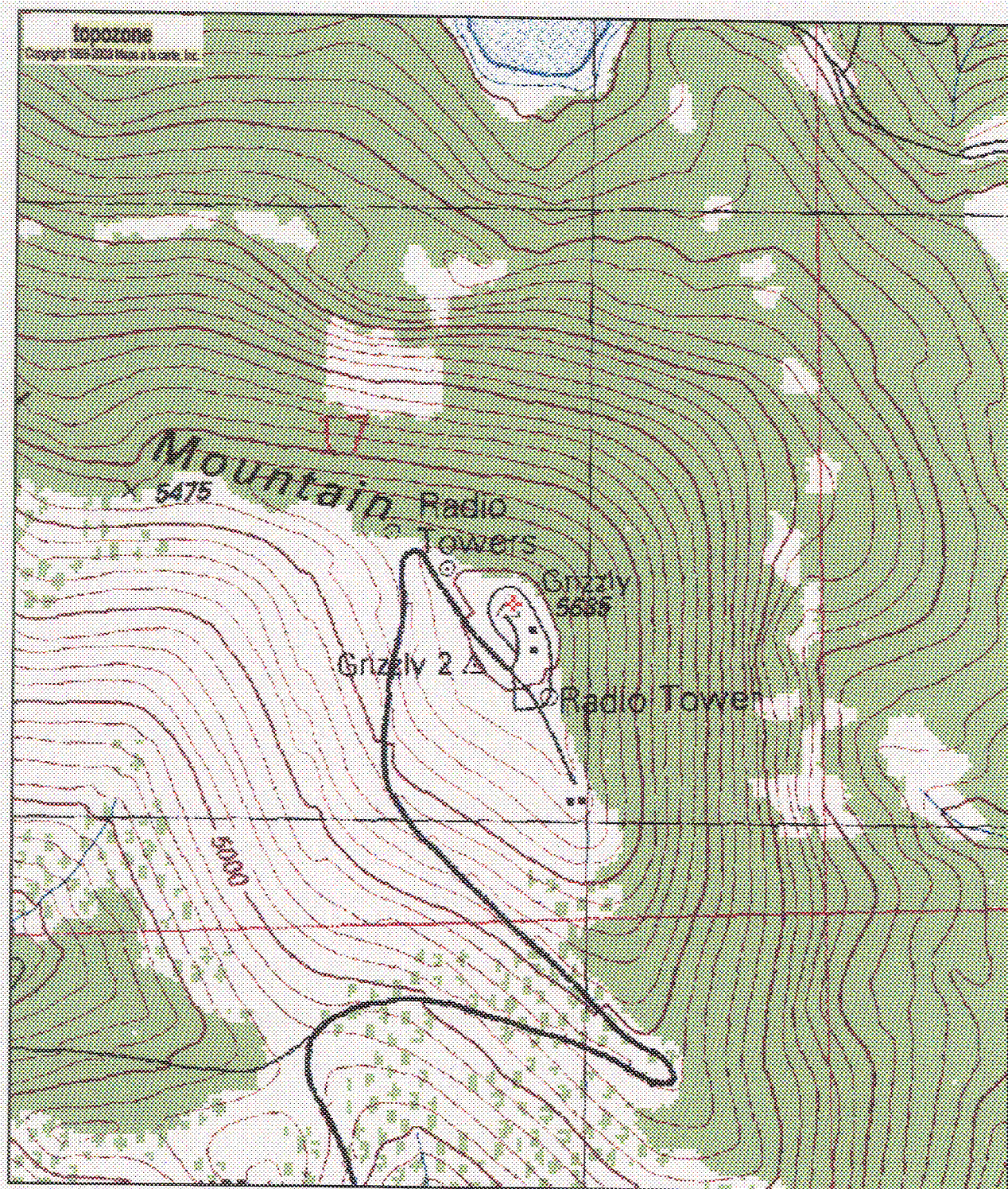
N. Lat. = 334051.0 W. Lng. = 854856.0

HAAT and Distance to Contour - FCC Method - NGDC 30 SEC

AL2956, Wnnx License Investment Co. ,RM9268

Azi.	AV EL	HAAT	ERP kW	dBk	Field	60-F5
000	207.9	261.1	5.6000	7.48	1.000	42.46
045	311.2	157.8	5.6000	7.48	1.000	34.40
090	312.3	156.7	5.6000	7.48	1.000	34.27
135	254.5	214.5	5.6000	7.48	1.000	39.37
180	234.3	234.7	5.6000	7.48	1.000	40.78
225	284.6	184.4	5.6000	7.48	1.000	37.01
270	237.3	231.7	5.6000	7.48	1.000	40.58
315	194.4	274.6	5.6000	7.48	1.000	43.31

Ave El= 254.57 M HAAT= 214.43 M AMSL= 469 M



0 0.1 0.2 0.3 0.4 0.5 km
0 0.09 0.18 0.27 0.36 0.45 mi

44° 26' 17"N, 120° 57' 12"W (NAD27)

Elevation 5,635 ft - Bench mark

Grizzly Mountain, USGS Grizzly Mountain (OR) Quadrangle

Projection is UTM Zone 10 NAD27 Datum



M=16.851
G=1.433

E3B PRINEVILLE, OR 226C3 NPRM HAAT

N. Lat. = 442617.0 W. Lng. = 1205712.0

HAAT and Distance to Contour - FCC Method - NGDC 30 SEC

RADD , Terry A Cowan

Azi.	AV EL	HAAT	ERP kW	dBk	Field	60-F5
000	1103.4	629.1	0.4250	-3.72	1.000	37.78
045	1306.8	425.7	0.4250	-3.72	1.000	30.27
090	1126.1	606.4	0.4250	-3.72	1.000	37.06
135	971.0	761.5	0.4250	-3.72	1.000	41.88
180	957.3	775.2	0.4250	-3.72	1.000	42.28
225	981.9	750.6	0.4250	-3.72	1.000	41.56
270	1050.9	681.6	0.4250	-3.72	1.000	39.44
315	976.8	755.7	0.4250	-3.72	1.000	41.71

Ave El= 1059.28 M HAAT= 673.22 M AMSL= 1732.5 M

€4

THE ERP/HAAT REQUIRED TO PRODUCE A MAXIMUM CLASS C3
FACILITY AT THE PROPOSED COAL RUN REFERENCE POINT
USING A 173 METER TOWER IS 2.05 KW AND 341 METERS HAAT
PRODUCING A 39 KM MAXIMUM C3 REFERENCE 60 DBU
CONTOUR.

N. Lat. = 372357.0 W. Lng. = 822342.0

HAAT and Distance to Contour - FCC Method - NGDC 30 SEC

Azi. AVEL HAAT ERP kW dBk Field 60-F5

000	394.1	333.9	2.0500	3.12	1.000	38.61
045	406.0	322.0	2.0500	3.12	1.000	37.97
090	343.8	384.2	2.0500	3.12	1.000	41.09
135	441.9	286.1	2.0500	3.12	1.000	36.01
180	405.1	322.9	2.0500	3.12	1.000	38.02
225	438.6	289.4	2.0500	3.12	1.000	36.20
270	330.8	397.2	2.0500	3.12	1.000	41.68
315	334.8	393.2	2.0500	3.12	1.000	41.49

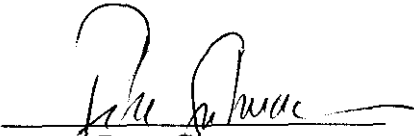
Ave El= 386.90 M HAAT= 341.10 M AMSL= 728 M

Site elevation = 555 meters

CERTIFICATE OF SERVICE

I, Peter Gutmann, an attorney at the law ~~firm~~ of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that on this 4th day of May, 2007, I caused a copy of the foregoing "Petition for Reconsideration" to be sent via first-class US Mail, postage prepaid, to the following:

Gary S. Smithwick, Esquire
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, NW
Suite 301
Washington, DC 20016
(Counsel for Dickinson County Broadcasting Corp.)


Peter Gutmann